

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6686

CHARLES A. RIPPY-BEY,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Catherine C. Eagles, District Judge. (1:13-cv-00058-CCE-LPA)

Submitted: July 25, 2013

Decided: July 30, 2013

Before GREGORY, DAVIS, and THACKER, Circuit Judges.

Remanded by unpublished per curiam opinion.

Charles A. Rippy-Bey, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles A. Rippy-Bey seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2006) petition. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Rippy-Bey is incarcerated, the notice is considered filed as of the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988). The record does not reveal when Rippy-Bey gave the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing the district court to obtain this information from the parties and to determine whether the filing was timely under Fed. R. App. P. 4(c)(1) and Houston v. Lack. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED